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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

BAROT, BHARAT

ART UNIT

PAPER NUMBER

2155

DATE MAILED: 02/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,080

Applicant(s)

SCHAFFER ET AL.

Examiner

Bharat N. Barot

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-17 is/are allowed.
- 6) ☒ Claim(s) 11 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

RESPONSE TO AMENDMENT

1. Claims 11-23 remain for further examination.
2. Applicants' amendments/new claims and arguments/remarks with respect to claims 11-23 filed on November 07, 2005 have been fully considered but they are deemed to be moot in view of the new grounds of rejection.

Drawings

3. This application has been filed with informal drawings, which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

Claim Rejections - 35 USC § 103(a)

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 11 and 18-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Qin et al (U.S. Patent No. 6,393,480) in view of Bechtolsheim et al (U.S. Patent No. 6,956,852).

6. As to claim 11, Qin et al teach a method to analyze network performance, comprising generating a flows report to monitor a given flow, the given flow having one or more frames that are sent from a sending node to a receiving node (summary of the invention; figures 6-8; column 4 line 1 to column 5 line 40), and the flows report comprising: a bytes attribute indicating a total number of bytes transmitted (figure 3; column 8 lines 8-48); and a frames attribute indicating a quantity of frames coming from source (column 7 lines 2-37).

However, Qui et al do not explicitly teach that the flow report comprising: a data payload bytes attribute indicating a some of the payload bytes for the frames in the flow; and a data frames attribute indicating a number frames having data in the flow.

Bechtolsheim et al explicitly teach that the flow report comprising: a data payload bytes attribute indicating a some of the payload bytes for the frames in the flow; and a data frames attribute indicating a number frames having data in the flow (figures 1 and 3; column 3 lines 36-60; and column 4 lines 4-21).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bechtolsheim et al stated above with the method of Qui et al for generating a flows report to monitor a given flow because it would have improved network performance analyze process and also improved control over the given flow frames that are sent from a sending node to a receiving node.

7. As to claim 22, Qin et al teach that the flows report further comprises **one or more** additional attributes including: a sending/receiving node attribute indicating the sending/receiving node (figures 1-2; and column 5 lines 46-49); a data duration attribute indicating a time period (figures 1-2; and column 5 lines 41-59) and a direction (figures 3-4); and a start time attribute and an end data time attribute indicating the times (figures 5A-5B; and column 6 lines 42-67) which is read on the claimed limitations because applicant claimed that the flows report further comprises **one or more** additional attributes.

8. As to claim 18, Qin et al teach a method of monitoring network performance when executing a task, the method comprising: displaying a first processing time corresponding to a first node in the network (summary of the invention; figures 6-8; column 4 line 1 to column 5 line 40), the processing time comprising attributes having a processing type comprising a plurality of time period (different types of time period) (figures 1-2 and 5A-5B; column 5 line 41 to column 6 line 25; and column 6 lines 42-67) which is read on the claimed limitations because applicant claimed that the processing type comprising **one of** time periods.

However, Qui et al do not explicitly teach that the processing time comprising: attributes having one of a node name and a node address, one of a start time and a start frame, one of an end time and an end frame and a duration, a number of errors associated with one of the start frame and the end frame.

Bechtolsheim et al explicitly teach that the processing time comprising: attributes having a node name/address, a start time/frame, an end time/frame and a duration, a number of errors associated with one of the start frame and the end frame (figures 1-4; and column 3 line 36 to column 4 line 29).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Bechtolsheim et al stated above with the method of Qui et al for monitoring network performance when executing a task because it would have improved network performance analyze process and also improved control over the given flow frames that are sent from a sending node to a receiving node.

9. As to claim 19, Qin et al teach that displaying **one or more** additional processing times, each additional processing time corresponding to an additional node in the network (figures 6-8; and column 4 line 1 to column 5 line 40).

10. As to claim 20, Qin et al teach that each processing time additionally includes **at least one of the** following attributes: a duration of the processing time (figures 1-2; and column 5 lines 41-59); a start/end time attributes indicating the times (figures 5A-5B; and column 6 lines 42-67); and a start/end frame representing a frame number and a description of the frame (figures 1-2; column 5 lines 41-59; and column 7 lines 12-37) which is read on the claimed limitations because applicant claimed that the processing time additionally includes **at least one of the** following attributes.

11. As to claims 21 and 23, they are also rejected for the same reasons set forth to rejecting claims 18-20 above (claims 21 and 23 contains similar limitations rejected in the claims 18-20).

Allowable Subject Matter

12. Claims 12-17 are allowable over the cited prior art of record.

Response to Arguments

13. Applicant's arguments have been fully considered. The examiner has attempted to answer (response) to the remarks (arguments) in the body of the Office action.

14. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Contact Information

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Bharat Barot** whose Telephone Number is **(571) 272-3979**. The examiner can normally be reached on Monday-Friday from 9:30 AM to 6:00 PM. Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number **(571) 273-8300**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Saleh Najjar**, can be reached at **(571) 272-4006**.

Patent Examiner Bharat Barot

Art Unit 2155

January 23, 2006

Bharat Barot
BHARAT BAROT
PRIMARY EXAMINER